

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BIEDERMANN MOTECH GMBH and
DEPUY SPINE, INC.,

Plaintiffs,

v.

ALPHATEC SPINE, INC.,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

Case No.: 06-CV-11111 (EFH)

Judge Edward F. Harrington

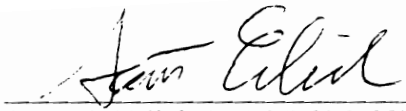
STIPULATED DISMISSAL WITH PREJUDICE AND CONSENT JUDGMENT

Pursuant to Rule 41 of the Federal Rules of Civil Procedure, Plaintiffs Biedermann Motech GmbH ("Biedermann Motech") and DePuy Spine, Inc. ("DePuy") and Defendant Alphatec Spine, Inc. ("Alphatec"), by and through their respective undersigned counsel, hereby stipulate to dismiss this action with prejudice, including all causes of action set forth in the Complaint and/or Answer and Counterclaims on file in this action.

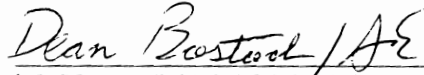
The parties further consent to entry of this consent judgment finding that U.S. Patent No. 5,207,678 ("the '678 patent") is valid and enforceable, and covers Alphatec's Zodiac® screw products and Solanas® screw products as set forth in the parties' License Agreement, that Alphatec's defenses with respect to the '678 patent and the infringement of the '678 patent by Alphatec's Zodiac® screw products and Solanas® screw products are dismissed with prejudice, and that Alphatec may not hereafter challenge the validity or enforceability of the '678 patent.

These dismissals and stipulations are each and all with consent of the opposing party. Each party shall bear its own costs and attorneys fees.

5-7-08
Stipulated Dismissal With
Prejudice and Consent Judgment is approved
So ordered, Edward F. Harrington, SDJ



Scott E. Erlich (BBO# 637202)
NUTTER, McCLENNEN & FISH, LLP
World Trade Center West
155 Seaport Boulevard
Boston, Massachusetts 02210-2604
Telephone: (617) 439-2000
(For BIEDERMANN MOTECH GMBH and
DEPUY SPINE, INC.)

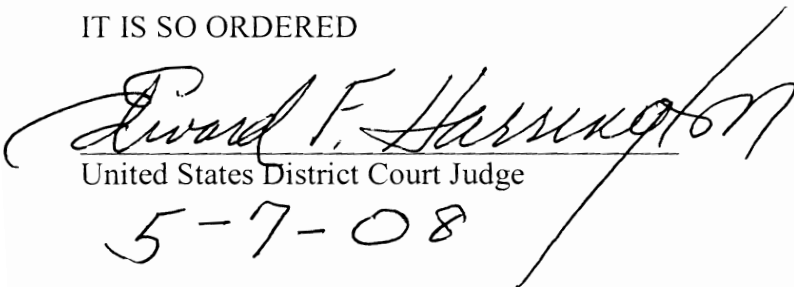


Dean G. Bostock (BBO# 548,747)
MINTZ LEVIN COHN FERRIS
GLOVSKY and POPEO, P.C.
One Financial Center
Boston, Massachusetts 02111
Telephone: (617) 542-6000
(For ALPHATEC SPINE, INC.)

Calvin P. Griffith (*admitted pro hac vice*)
Patrick J. Norton (*admitted pro hac vice*)
Isaac A. Molnar (*admitted pro hac vice*)
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114-1190
Telephone: (216) 586-3939
(For DEPUY SPINE, INC.)

Luke L. Dauchot (*admitted pro hac vice*)
Greer N. Shaw (BBO #638128)
KIRKLAND & ELLIS LLP
777 South Figueroa Street
Los Angeles, California 90017
Telephone: (213) 680-8400
(For BIEDERMANN MOTECH GMBH)

IT IS SO ORDERED



United States District Court Judge
5-7-08